

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:	:	Chapter 11
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BH S&B HOLDINGS LLC, <u>et al.</u> ,	:	Case No.: 08-14604 (MG)
	:	
Debtors.	:	Jointly Administered
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**NOTICE OF PROPOSED STIPULATION AND ORDER RESOLVING PROOFS
OF CLAIM NOS. 678 AND 679 FILED BY THE STATE OF MICHIGAN,
DEPARTMENT OF TREASURY**

PLEASE TAKE NOTICE that on July 29, 2010, the Debtors filed with the Court a proposed Stipulation and Order Resolving Proofs of Claim Nos. 678 and 679 Filed by the State of Michigan, Department of Treasury (the "Stipulation").

PLEASE TAKE FURTHER NOTICE that the Debtors intend to present the Stipulation for signature to the Bankruptcy Court, with the Honorable Martin Glenn presiding, One Bowling Green, Room 501, New York, New York at the hearing currently scheduled for 2:00 PM (Prevailing Eastern Time) on August 5, 2010.

Dated: New York, New York
July 29, 2010

Respectfully submitted,

CAHILL GORDON & REINDEL LLP

/s/ Kevin J. Burke

Joel H. Levitin
Kevin J. Burke
Richard A. Stieglitz Jr.
Peter J. Linken
Eighty Pine Street
New York, New York 10005
Telephone: (212) 701-3000
Facsimile: (212) 269-5420
jlevitin@cahill.com
kburke@cahill.com
rstiegltz@cahill.com
plinken@cahill.com

*Attorneys for the
Debtors and Debtors-in-Possession*

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**PROPOSED STIPULATION AND ORDER RESOLVING PROOFS OF
CLAIM NOS. 678 AND 679 FILED BY THE STATE OF MICHIGAN,
DEPARTMENT OF TREASURY**

The above-captioned debtors and debtors-in-possession (collectively, the “Debtors”),¹ and the State of Michigan, Department of Treasury (the “Department” and together with the Debtors, the “Parties”), by and through their respective undersigned attorneys, hereby enter into this agreement (the “Stipulation and Order”) and stipulate to the following:

Recitals

A. On November 19, 2008 (the “Petition Date”), the Debtors filed their respective voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code, commencing the bankruptcy cases jointly administered as Case No. 08-14604 (MG) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”).

¹ The other Debtors in these cases are BH S&B Distribution LLC; BH S&B Lico LLC; BH S&B Retail LLC; BHY S&B Intermediate Holdco LLC; Cubicle Licensing LLC; Fashion Plate Licensing LLC; and Heritage Licensing LLC.

B. On November 26, 2008, the Office of the United States Trustee appointed the Committee. No trustee or examiner has been appointed in these cases.

C. On October 26, 2009, the Department filed proof of claim number 678 (the “Department Claim”) in the amount of \$357,792.39, of which the entire amount was asserted as an administrative priority claim pursuant to 11 U.S.C. § 503. The Department Claim represented amounts sought by the Department for alleged taxes due and owing to the Department, which taxes were allegedly attributable to the post-petition period.

D. On March 8, 2010, the Department filed proof of claim number 679 (the “Amended Department Claim”) in the amount of \$1,032,651.97, of which the entire amount was asserted as an administrative priority claim pursuant to 11 U.S.C. § 503. The Amended Department Claim represented taxes accrued subsequent to the Debtors’ cessation of business activity in the State of Michigan.

E. The Parties also came to an understanding regarding various clerical errors that contributed, in part, to the continued accrual of taxes allegedly due and owing to the Department for time periods subsequent to the Debtors’ cessation of business activity in the State of Michigan. For the avoidance of doubt, the parties mutually represent and agree that: (i) the January 2009 tax return was filed erroneously as a tax return for January 2008; (ii) the Debtors’ filed what they believe to be all tax returns properly due for the relevant post-petition periods; (iii) the Debtors filed the tax returns under only one federal ID number, F26-3382554, which was intended by the Debtors to encompass all

Michigan Establishment numbers – 01166453, 02166453, 03166453, 05166453 and 06166453 – (the “ME Numbers”) assigned by the Department to the Debtors.

NOW, THEREFORE, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, and in an effort to avoid the uncertainties and costs attendant to any litigation over the issues raised herein, the Parties have entered into this Stipulation and Order and agree to be bound by its terms upon the approval by the Bankruptcy Court.

Agreement

1. The Recitals set forth above are incorporated herein as though fully set forth below.
2. Upon this Stipulation and Order becoming a final and non-appealable order, the Amended Department Claim shall be deemed released, disallowed, expunged, and withdrawn with prejudice.
3. The Parties further agree that upon this Stipulation and Order becoming a final and non-appealable order, the Debtors are authorized to transfer to the Department the sum of \$4,212.17 (the “Settlement Amount”) in full release, discharge, settlement, and satisfaction of the Department Claim.
4. Upon receipt by the Department of the Settlement Amount, the Department Claim shall be deemed satisfied, released, discharged, expunged and withdrawn with prejudice. It is intended by the Parties that payment by the Debtors of the Settlement Amount shall resolve all outstanding tax issues, and represent satisfaction of all tax amounts allegedly due and owing to the State of Michigan, related to the Debtors’ business activities in the State of Michigan.

5. The terms and conditions of this Stipulation and Order, and the obligations of the Parties to perform hereunder, shall become effective only upon approval of the Stipulation and Order by the Bankruptcy Court.

6. This Stipulation and Order shall be binding upon the Parties, their respective successors and assigns, and upon any trustee subsequently appointed in this or any other related cases and/or proceedings.

7. The Parties expressly acknowledge that they have been advised and represented by their own counsel in connection with the negotiation and execution of this Stipulation and Order. The Parties expressly represent and warrant that this Stipulation and Order is given in good faith and acknowledge that execution of this Stipulation and Order is not the product or result of any duress, economic or otherwise.

8. The Stipulation and Order contains the entire agreement between the Parties. All discussions and agreements previously entered between the Parties concerning the subject matter of this Stipulation and Order are hereby merged into this Stipulation and Order. Each of the Parties covenants and represents that it has not entered into this Stipulation and Order as a result of any representation, warranty, agreement, promise, or inducement other than as may be specifically provided herein.

9. The Parties hereto represent and warrant to each other that they are authorized to execute this Stipulation and Order, that each has full power and authority to enter into and perform (subject to Bankruptcy Court approval with regard to the Debtors) in accordance with the terms of this Stipulation and Order and that this Stipulation and Order is duly executed and delivered and constitutes (subject to Bankruptcy Court approval with regard to the Debtors) a valid and binding agreement in accordance with its terms.

10. This Stipulation and Order may be executed and delivered in any number of original, facsimile, or electronic portable document format (.pdf) counterparts, each of which shall be deemed an original, but which together shall constitute one and the same instrument.

11. This Stipulation and Order shall be governed by, and construed and enforced in accordance with the laws of the State of New York, without giving effect to the principles of conflict of laws thereof. The Parties hereby irrevocably and unconditionally agree that the Bankruptcy Court in the above captioned Chapter 11 case shall retain exclusive jurisdiction over all matters relating to the construction, interpretation or enforcement of this Stipulation and Order. Should the Bankruptcy Court abstain from exercising its jurisdiction or be found not to have jurisdiction over a matter relating to this Stipulation and Order, such matter shall be adjudicated in either the federal district court or state court located in the County of New York, State of New York.

12. The Debtors are authorized to take all actions necessary to effectuate the terms of this Stipulation and Order.

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Dated: July 29, 2010

By: /s/ Kevin J. Burke
Joel H. Levitin
Kevin J. Burke
Richard A. Stieglitz Jr.
Peter J. Linken
Cahill Gordon & Reindel LLP
Eighty Pine Street
New York, NY 10005
Telephone: (212) 701-3000
jlevitin@cahill.com
kburke@cahill.com
rstieglitz@cahill.com
plinken@cahill.com

Counsel to the Debtors

By: /s/ Juandisha M. Harris
Juandisha M. Harris
Assistant Attorney General
Cadillace Place, Ste. 10-200
2020 W. Grand Blvd.
Detroit, MI 48202
Telephone: (313) 456-0140
harrisjm@michigan.gov

Counsel for State of Michigan, Dept. of Revenue

SO ORDERED, this ___ day of August, 2010

Hon. Martin Glenn
UNITED STATES BANKRUPTCY JUDGE